

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
NGM INSURANCE COMPANY,

Plaintiff,

-against-

BLAKELY PUMPING, INC. d/b/a ASSENTIAL PUMPING,
BRIAN J. BLAKELY, PETER J. SLINGERLAND, NANCY
SLINGERLAND and PROGRESSIVE CASUALTY
INSURANCE COMPANY,

Defendants.
-----X

Docket No.:
07-CV-6517

**EXHIBITS TO
MOTION**

EXHIBITS G-H

EXHIBIT “G”

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ULSTER

PETER J. SLINGERLAND and NANCY SLINGERLAND,

Plaintiff,

-against-

BRIAN J. BLAKELY and BLAKELY PUMPING, INC.,
d/b/a ASSENTIAL PUMPING,

Defendants.

July 12, 2006
Poughkeepsie, New York
2:35 p.m. - 3:30 p.m.

Marianne Glum, Reporter

DEPOSITION

OF

BRIAN J. BLAKELY



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APPEARANCES:

GOLDSTEIN & METZGER, LLP
Attorneys for Plaintiffs
40 Garden Street
Poughkeepsie, New York 12601

BY: PAUL GOLDSTEIN, ESQ.

LAW OFFICES OF CRAIG P. CURCIO
Attorneys for Defendant
Brian J. Blakely
One Edgewater Drive
Middletown, New York 10940

BY: BRYAN KAPLAN, ESQ.

ALSO PRESENT:
STEVEN E. BLAKELY
PATRICIA A. BLAKELY
KEVIN AHRENHOLZ
MARYANNE QUICK

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4 IT IS HEREBY STIPULATED AND AGREED by and
5 between the attorneys hereto as follows:
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7

8 1. That the following testimony, when
9 transcribed, may be sworn to before any Notary
10 Public of the State of New York, and may be used
11 with the same force and effect as though sworn to
12 in open Court at the time of Trial.
13

14
15 2. That the filing of the original
16 transcript shall be waived, provided opposing
17 counsel shall receive a copy thereof, free of
18 charge.
19

20
21 3. That all objections, except as to form
22 of the question, shall be reserved for
23 determination by the Trial Court.
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2 BRIAN J. BLAKELY, a DEFENDANT herein, having
3 been first duly sworn by a Notary Public within and
4 for the State of New York, was examined and
5 testified as follows:
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8

9 BY MR. GOLDSTEIN:

10 Q State your name for the record, please?

11 A Brian Blakely.

12 Q What is your address?

13 A 133 Piney Point Road, Boiceville, New York 12412.

14 Q What is your date of birth?

15 A 2/12/84.

16 Q What is your present occupation?

17 A Assential. I wouldn't know how to ---

18 Q What did you do today or yesterday?

19 A I pumped septic.

20 Q Who are you employed by?

21 A Assential Pumping.

22 Q Assential Pumping --- A S S E N T I A L Pumping?

23 A Correct.

24 Q We had done a corporate search and we found a
25 Blakely, B L A K E L Y ---

BLAKELY

A It's a d/b/a.

BY MR. KAPLAN:

You have to let him finish.

BY MR. GOLDSTEIN:

Q B L A K E L Y, Inc. that was doing business as Assential Pumping, is that the company as far as you understand that employed you?

A Yes.

Q How long has Blakely Pumping, Inc. or Assential Pumping been your employer?

A A year-and-a-half.

Q So would you have been working there in 2005?

A Yes.

Q Were you working in 2004?

A The corporation was just being built.

Q In 2000 ---

A I believe in '04.

Q We have a certificate of incorporation of Blakely Pumping, Inc. that indicates a date of May 20th, 2004. Does that sound about right?

A It sounds about right.

Q Do you know at whose instance, in other words, who was the one that incorporated it, was it you, your brother or somebody else?

BLAKELY

2 A My brother.

3 Q What is your brother's name?

4 A Steven D. Blakely.

5 Q What is Steven's background, if you know? In other
6 words, where was he educated?

7 A Onteora High School.

8 Q Did he go on after high school?

9 A No, he did not.

10 Q How old is Steven?

11 A He's 29.

12 Q Was he working prior to forming Blakely Pumping,
13 Inc.?

14 A Yes. He works as a wholesale distributor for
15 Freihoffer.

16 Q That's Freihoffer baking goods?

17 A Correct.

18 Q Is that where he has a route where he drives a
19 vehicle?

20 A Yes.

21 Q That's his own entity, that's his own business?

22 A Yes.

23 Q He owns the route and he drives around and sells
24 breads and cookies and things like that?

25 A Correct.

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2 Q How long has he done that?

3 A Nine years, ten years.

4 Q And there came a time that he decided he wanted to
5 go into the septic pumping business?

6 A Well, it was our idea. He's pretty much helping me
7 out try to get started with everything, but he's
8 the main officer.

9 Q In 2004, he owned this route, correct?

10 A Correct.

11 Q What did you do in 2004?

12 A I was trying to build up a company. I was trying
13 to get information about it. I was pretty much
14 just out of school, just doing odd jobs.

15 Q When did you graduate high school?

16 A I graduated in 2002.

17 Q What high school?

18 A Onteora.

19 Q Where is Onteora High School?

20 A Boiceville.

21 Q After high school, what did you do?

22 A Just odd jobs. I was in between whether I wanted
23 to go to school and I never went to school so I was
24 just doing odd jobs around the house.

25 Q Now, did you have any experience in pumping

BLAKELY

septics?

A No, but I went through a couple classes that were provided by DEP and Delhi, just informational classes about it.

Q So there came a time around May of '04 that your brother formed this corporation called ---

A We had talked about it.

BY MR. KAPLAN:

A lot of times you are going to anticipate what he is asking you, but wait until he finishes asking the question and then answer it.

BY MR. GOLDSTEIN:

Q Prior to May of '04, you and your brother talked about starting this business pumping septics; is that correct?

A Correct.

Q You had no capital, I presume, no money to pay?

A No.

Q He had money?

A Yes.

Q So what I am saying is did he meet with someone to do the certificate of incorporation?

A Yes.

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Q Were you with him when he met with the person or
the accountant or whomever it was?

3

4

A Yeah, it was just for a business idea, a business
plan.

5

6

Q Who did you meet with?

7

A Richard Merck, M E R C K.

8

Q And where is Richard Merck?

9

A Kingston, New York.

10

Q Is he an accountant?

11

A Correct.

12

Q He spoke to you and your brother about forming a
business?

13

14

A Yes.

15

Q And what did he generally discuss?

16

A It was a long time ago.

17

Q I understand. Just basic.

18

A We just basically --- the business plan, had in
mind what we wanted to do.

19

20

Q Did he tell you or advise you and your brother that
he would prepare a certificate of incorporation?

21

22

A Yes.

23

Q Did he then incorporate you?

24

A Yes.

25

Q Do you know if he got what's called a corporate

BLAKELY

book, it's often a black book or some book that has minutes in it and officers in it, things like that?

A My brother has that. I don't know.

Q Your brother has it?

A Yeah.

Q In your discussions with Mr. Merck, did you ever discuss who would be the president of the corporation, the vice president of the corporation?

A Well, my brother obviously would be the president. I mean me being vice president is just word of mouth from my brother.

Q But was it ever formalized, the officers, as far as you know?

A I don't believe so.

Q Did you ever sign any minutes or anything saying you were vice president?

A No.

Q Now, were any shares of stock ever issued to you?

A Yes.

Q How many shares of stock were issued to you?

A That I can't recall.

Q Do you know when the shares of stock were issued?

A No.

Q Now, at some point in time a d/b/a was filed where

1 BLAKELY 11
2 you were Assential Pumping, are you aware of that?
3 A I am aware of it.
4 Q It indicates the principal place of business of
5 Assential Pumping is 11 Mary Lou, L O U, Lane,
6 Shokan, New York 12481. Whose address is that?
7 A My brother's.
8 Q And that's Steve Blakely?
9 A Correct.
10 Q It indicates that he is president of Blakely
11 Pumping, Inc.; is that accurate?
12 A Yes.
13 Q He is the person that signed the d/b/a?
14 A Yes.
15 Q Do you know why he had a d/b/a and didn't do
16 business under the corporate name?
17 A I'm not sure.
18 Q When did the businesses start doing business?
19 A Probably a year-and-a-half ago.
20 Q And in order to do business, did you have to
21 purchase any vehicles or any equipment?
22 A Yeah.
23 Q What did you have to purchase?
24 A Pump truck.
25 Q Any other equipment?

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A Hoses, shovels, rakes, pick axe.

3

Q That's it?

4

A Yeah.

5

Q And who paid for all these?

6

A My brother.

7

Q How many employees did you have in the business in
November of '05?

8

9

A We have no employees.

10

Q Well, at the end of 2005, did you get what's called
a 1099?

11

12

A No.

13

Q Or a W-2 or any other kind of form, tax form?

14

A No.

15

Q Did you file tax return?

16

A No, I didn't.

17

BY MR. KAPLAN:

18

Off the record.

19

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(OFF THE RECORD DISCUSSION)

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BY MR. GOLDSTEIN:

23

Q Was there a corporate tax return, as far as you
know?

24

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A Yes.

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Q When that corporate tax return was filed, did you sign anything on it?

A No.

Q So that would be for 2005, correct?

A Correct.

BY MR. KAPLAN:

And we will certainly make an effort to obtain that, which I think would help us both.

BY MR. GOLDSTEIN:

Q In November of '05, how many jobs did you have, jobs I mean other than Assential Pumping, did you work anywhere else, that's what I mean?

A Just besides --- in '05?

Q Yeah.

A Pretty much just pumping.

Q And did your brother work at all in the business?

A He's got Freihoffer. He pretty much stays out of the business, the working area of the business. He did the finances.

Q So he did the finances, he is the president and he owns the corporation as far as you understand?

A Yes.

Q And you work the pump truck?

BLAKELY

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- 2 A Yes.
- 3 Q It's an actual motor vehicle?
- 4 A Yes.
- 5 Q And can you describe the motor vehicle, what year
- 6 it is?
- 7 A It's an '05 International. The model is DT466.
- 8 Q Where is it kept, the pump truck?
- 9 A 133 Piney Point Road, at my home.
- 10 Q That's your home?
- 11 A Yes.
- 12 Q Who do you reside with at 133 Piney Point Road?
- 13 A My parents.
- 14 Q And their names?
- 15 A Steven and Patricia Blakely.
- 16 Q Now, in November of '05, did you own a motor
- 17 vehicle of your own?
- 18 A Yes.
- 19 Q What kind of vehicle did you own?
- 20 A A Dodge Ram 2500.
- 21 Q What kind of vehicle is that?
- 22 A It's a pick-up truck.
- 23 Q How long had you owned that?
- 24 A In '05, a year.
- 25 Q On November 3rd of '05, did you have any mechanical

BLAKELY

difficulties with the truck?

A No.

Q What time did you get up that morning?

A (No response.)

Q The accident happened about 7:30, right?

A Yes.

Q Approximately.

A It's hard to tell. I can't really tell. It's a long time ago.

Q You have no idea?

A Around 6:30.

Q What did you do when you got up?

A Got ready. Got dressed.

Q What was it your intention to do when you got ready?

A I had to go into Kingston.

Q Why did you have to go into Kingston?

A Supplies.

Q And the supplies were for what?

A For the pump truck.

Q What supplies did you have to get for the pump truck?

A I had broken a shovel previous.

Q You said the pump truck was at the house?

BLAKELY

2 A Correct.

3 Q Where the Dodge Ram was?

4 A Yes.

5 Q Did you have a scheduled appointment that day?

6 A Yes.

7 Q What time was the scheduled appointment?

8 A There really was no time. It's whenever I can get
9 there.

10 Q How many appointments did you have?

11 A I had one that day.

12 Q Where was that appointment?

13 A In Shokan.

14 Q Do you remember the name of the person or the
15 place?

16 A No, I don't.

17 Q So in other words, this person knew that you were
18 going to come --- is it a residence or commercial?

19 A Residence.

20 Q So this person had previously arranged that you
21 would come some time that day to pump them out?

22 A Well, to assess. To assess the problem with their
23 septic.

24 Q When you would come to assess, would you use the
25 Dodge Ram or would you have used the 2005

BLAKELY

International?

BY MR. KAPLAN:

You mean that day or prior to that, are
you saying in general?

BY MR. GOLDSTEIN:

Let me withdraw the question.

BY MR. GOLDSTEIN:

Q It's my understanding sometimes you would come to a
premises, a place to assess before you would pump,
correct?

A Absolutely.

Q And sometimes you would come to pump?

A Correct.

Q If you came to assess rather than pump, would you
drive your Dodge Ram instead of your pump truck?

BY MR. KAPLAN:

He is talking generally not just that
day.

BY THE WITNESS:

A Yes.

BY MR. GOLDSTEIN:

Q Generally?

A Yes.

Q Because I assume that you want to conserve the pump

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truck, you don't want to use too much mileage, it takes up too much gas?

3

4

A Fuel, yeah.

5

Q So unless you are going to pump, you take your own vehicle?

6

7

A Exactly.

8

Q And that was your custom and practice at that time?

9

A Yes.

10

Q So that morning, the morning when the accident occurred, you were leaving your house to go to Kingston to pick up some supplies for the pump truck?

11

12

13

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A Yes.

15

Q Such as a shovel that you would use that you had broken?

16

17

A Yes.

18

Q And it was your intention that you would buy it where in Kingston?

19

20

A Home Depot.

21

Q Once you got it, you were going to come back and then go out? Was it your intention to go from Kingston to do the estimate?

22

23

24

A Yes.

25

Q So what time did you get on the road,

BLAKELY

approximately?

A Approximately 6:45.

Q How long was it going to take you to get to where you were going, you said Home Depot in Kingston?

A Yes.

Q How long a trip is it normally?

A 15, 20 minutes.

BY MR. KAPLAN:

Off the record.

(OFF THE RECORD DISCUSSION)

BY MR. GOLDSTEIN:

Q What did you keep in the pick-up?

A Meaning?

Q Well, did you keep some supplies owned by Blakely Pumping in your pick-up? In other words, when you go to people's houses, would you need some kind of shovels or picks or something to kind of poke around to assess the situation?

A Yes.

Q What kind of equipment would you normally keep of the company's?

A Shovel, pick axe and a rake.

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Q So the shovel, pick axe and rake you would often
keep in your pick-up truck?

3

4

A Correct.

5

Q And those were all owned by the business?

6

A Yes.

7

Q And those you often had to use to assess the
situation?

8

9

A Yes.

10

Q When you say assess, tell me what you do normally.

11

A Well, I have to dig up the tank, pop the cover and
check out the tank, septage inside the tank, see
how full it is. And then I would have to go around
to the D box, distribution box, inspect that and
inspect the lines going to and from.

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Q And you do that, you said, with your pick-up truck?

17

A Yes.

18

Q And the tools that is provided by Blakely Pumping?

19

A Correct.

20

Q Now, the day of the incident, you were going to
Home Depot and you left your home you said about
6:45, correct?

21

22

23

A I really can't tell time.

24

Q 6:45, 7:00, 7:15, some time early morning?

25

A Yes.

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Q Now, when you left, what was the weather like?

A It was clear out.

Q And roads dry?

A Yes.

Q And your vehicle, was it operating okay?

A Yes.

Q What route did you take to get to the accident scene? You left your house at Piney Point Road, you made a left or right onto another road?

A Would have made a left onto 28.

Q Did the accident happen on 28?

A Yes.

Q How many miles and/or minutes were you on Route 28 before the accident occurred?

A Probably a quarter of a mile.

Q Now, within a quarter of a mile of Route 28, what was the roadway like? And let me go back. Let me ask you, what direction were you headed?

A West.

Q In the westbound direction on Route 28, how many lanes of traffic were there?

A Two.

Q And in eastbound, how many lanes of traffic?

A Two.

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2 Q What was the traffic like?

3 A I guess you would say starting rush hour.

4 Q So was it heavy?

5 A It wasn't heavy, but it was ---

6 Q Well, light, medium or heavy, which would you call
7 it?

8 A Medium.

9 Q What was the speed limit on Route 28?

10 A 45.

11 Q 45?

12 A Yes.

13 Q This accident happened at an intersection?

14 A Yes.

15 Q And the intersection, was that with what other
16 road?

17 A I don't know the name of the road. I don't recall.

18 Q If I told you Forest Hill Drive, would that refresh
19 your recollection?

20 A Yes.

21 Q And this intersection, was it controlled by a
22 traffic light?

23 A Yes.

24 BY MR. KAPLAN:

25 In his direction of travel you are

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BLAKELY
talking, right?
BY MR. GOLDSTEIN:
If the intersection is --- do you have
pictures?
BY MR. KAPLAN:
Yes.
BY MR. GOLDSTEIN:
Why don't we mark them.
BY MR. KAPLAN:
I think they are yours.

(PHOTOGRAPHS MARKED AS PLAINTIFF'S
EXHIBITS 1 - 3 FOR IDENTIFICATION)

BY MR. GOLDSTEIN:
Q I show you three photograph's I have, Plaintiff's
1, Plaintiff's 2 and Plaintiff's 3. I am going to
ask you a couple of questions I have about them.
Look at Plaintiff's 3 for identification.
A Yes.
Q And Plaintiff's 3 looks like it says 28 west, does
it not?
A Yes.
Q And in fact there is a truck in the middle of the

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BLAKELY

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road there, is it not?

3

A

Yes.

4

Q

Is that your pick-up truck?

5

A

Yes, it is.

6

Q

The direction that this picture is showing us, is
that the direction your vehicle was traveling?

7

8

A

Yes.

9

Q

And it does depict the traffic light, does it not?

10

A

Yes.

11

Q

It seems to indicate there are three lanes of
traffic; is that correct?

12

13

A

Yes.

14

Q

And a left-hand turn lane as well; is that correct?

15

A

Yes.

16

Q

Do you remember that at the intersection?

17

A

Two lane.

18

Q

Let's talk about a quarter of mile away, you are on
Route 28 going westbound, correct?

19

20

A

Correct.

21

Q

And there is a traffic light, correct?

22

A

Yes.

23

Q

Could you see the traffic light a quarter mile
away?

24

25

A

No.

BLAKELY

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2 Q How far away from the intersection could you first
3 see the traffic light?

4 A I really couldn't see the traffic light due to the
5 sun glare off my windshield.

6 Q You are familiar with this intersection?

7 A Yes.

8 Q This is an intersection you go on almost a daily
9 basis?

10 A Yes.

11 Q From your experience going on it in previous times,
12 can you tell me how far away can you normally see
13 the traffic light?

14 BY MR. KAPLAN:

15 Again, he is asking not on the date of
16 the accident, if there wasn't a problem
17 with the sun glare.

18 BY THE WITNESS:

19 A Probably a tenth of a mile.

20 BY MR. GOLDSTEIN:

21 Q Now, is that because the road curves in some
22 fashion before you get there?

23 A Yes.

24 Q And when it curves, are you turning your wheel to
25 your left or are you turning your wheel to your

BLAKELY

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right to get onto the straight away? I assume the tenth of a mile is straight and flat; is that correct?

A Yes.

Q When you get to that, do you have to turn to the left or turn to the right to get to that one-tenth of a mile?

A Turn to the right.

Q When you got one-tenth of a mile away, what was your speed?

A I can't recall.

Q Do you know what lane were you in, the right lane or the left lane?

A The left lane.

Q And were there any vehicles in front of you?

A No.

Q Were there any vehicles in the right lane?

A No.

Q Now, was it your intention had the accident not occurred for you to continue on 28 past the intersection?

A Yes.

Q And how far past the intersection would you have gone, a mile, two miles, that's what I am asking?

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A Like 12.

Q 12 miles?

A Yes.

Q Now, when you were a tenth of a mile away, could you see the intersection?

A Yes.

Q You could see the intersection, but you could not see whether the light was red or not?

A No.

Q Is that correct?

A That's correct, sorry.

Q Why couldn't you see whether the light was red or not?

A Sun glare.

BY MR. KAPLAN:

Note my objection to form, but you could answer.

BY MR. GOLDSTEIN:

Q When it was a tenth of a mile away, do you know whether the light was red or green?

A Couldn't tell.

Q Were there any vehicles behind you when you were a tenth of a mile away?

A I can't remember.

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1
2 Q Did you see any vehicles in the intersection when
3 you were a tenth of a mile away?

4 A No.

5 Q Did your vehicle come in contact with another
6 vehicle?

7 A Yes.

8 Q And did that occur at the intersection?

9 A Yes.

10 Q What part of your vehicle came in contact with what
11 part of the other vehicle?

12 A Nose of my vehicle --- what would you say, side?

13 BY MR. KAPLAN:

14 I wouldn't say anything.

15 BY MR. GOLDSTEIN:

16 Q I show you Plaintiff's Exhibit 1 for
17 identification. Can you see a red vehicle there?

18 A Yes.

19 Q Is that the vehicle your pick-up truck came in
20 contact with?

21 A Yes.

22 Q That seems to depict the driver's side?

23 A Driver's side.

24 Q Does that picture depict the accident scene or the
25 positions of the vehicle after the impact?

BLAKELY

BY MR. KAPLAN:

Just note my objection. You want to know if that's how the vehicles looked after the accident, right?

BY MR. GOLDSTEIN:

Yes.

BY THE WITNESS:

A Yes.

BY MR. GOLDSTEIN:

Q Was your vehicle moved from the time it came to rest after the impact until the time the police came?

A Yes.

Q It was moved?

A Yes.

Q Does this picture show your vehicle before it was moved or after it was moved?

A After.

Q Immediately after the impact, where was it moved?

A Back.

Q Do you know, is this what Plaintiff's 1 is supposed to depict? Do you understand what I am saying?

A No.

Q You are saying one is not the positions of the

BLAKELY

vehicles immediately after the accident; is that correct?

A That's correct.

Q When this picture was taken, had the red vehicle been moved after the impact?

A No. I moved my truck.

Q Where did you move your truck?

A About five feet back.

Q And this is showing where you moved your truck five feet back?

A Correct.

BY MR. KAPLAN:

Off the record.

(OFF THE RECORD DISCUSSION)

BY MR. GOLDSTEIN:

Q Immediately after the impact, was your vehicle actually touching the red vehicle?

A Yes, it was.

Q What part of your vehicle was touching?

A The nose was touching the driver's side.

Q So you backed it up so they could get into the ---

A Yes, I did.

BLAKELY

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Q Did you get out of your vehicle immediately after
the impact?

3

4

A Yes.

5

Q What did you do?

6

A Ran over to the --- not to the vehicle, but near
the vehicle.

7

8

Q Did you see a gentleman inside the vehicle?

9

A Yes.

10

Q Did you have any conversations with the gentleman
inside the vehicle?

11

12

A No.

13

Q Why not?

14

A He was unconscious.

15

Q Did you have any discussions with anyone at the
accident scene, anybody, passerby, police, anybody?

16

17

A I believe it to be his wife.

18

Q What did you say to her and what did she say to
you, as best as you can, obviously?

19

20

A I told her to calm down, fire officials will be
here soon. And then I got back in my truck and
moved the truck and someone let me use their phone
to call my father.

21

22

23

24

Q Did your father come to the scene?

25

A Yes.

BLAKELY

1

2

Q And how soon after the accident did your father
come to the scene?

3

4

A It's hard to tell. Probably a half hour.

5

Q Now, did you ever have a discussion with the police
as to what happened?

6

7

A Brief statement.

8

Q What did you say to them, what did they say to you?

9

A I couldn't see the light due to the sun glare.

10

Q Is that it?

11

A That's pretty much it, yes.

12

Q As a result of the accident, did you receive any
traffic citations or summonses?

13

14

BY MR. KAPLAN:

15

Note my objection to the form. I mean

16

if you want to ask if he pleaded guilty

17

to any traffic offense.

18

BY MR. GOLDSTEIN:

19

Fine, I will adopt your counsel's

20

question.

21

BY THE WITNESS:

22

A No.

23

BY MR. GOLDSTEIN:

24

Q Are there any still pending?

25

A No.

BLAKELY

1

2

Q Now, prior to the impact occurring, did you ever
see the red vehicle?

3

4

A Split second.

5

Q When you say split second, you saw it a split
second before the impact?

6

7

A We were both in the intersection.

8

Q When you said split second, did you mean that you
saw the other vehicle a split second before the
impact?

10

11

A Yes.

12

Q How far away were you when you saw it the split
second before the impact?

13

14

A It looked like I was right on top of him.

15

Q Where was his vehicle in relationship to your lane
of traffic?

16

17

A He was making a left turn to go east.

18

BY MR. KAPLAN:

19

What about in relation to your lane

20

though, was he across your lane?

21

BY THE WITNESS:

22

A He was across my lane.

23

BY MR. GOLDSTEIN:

24

Q So he was across the westbound lane?

25

A Yes.

BLAKELY

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25

Q Making a left to --- the opposite direction?

A Correct.

Q Did you see a blinker that split second?

A No.

Q Now, this happened in the left-hand lane, correct?

A Correct.

Q And when you first saw him, where was the front of his vehicle in relation to the two westbound lanes on Route 28?

A It was past me.

Q It was past ---

A Past the front of my truck.

Q When you saw him, did you make any attempt to avoid him?

A Yeah, I swerved left.

Q What about braking?

A I can't recall.

Q Did you notice any skid marks at the accident scene?

A No, besides his.

Q When your vehicle struck his vehicle, did the vehicles move in any direction?

A Yes.

Q His vehicle, did it move east, west, north, south,

BLAKELY

something else?

A It moved west.

Q Do you know how many feet it moved west?

A From the photos, it looks probably 75 to a hundred feet.

Q When your vehicle made contact with the other vehicle, was it in essence a perpendicular contact? Do you know what I mean by perpendicular?

A T.

Q Was it a T-bone?

A Yes.

Q Did the vehicle also move a little to your right, if you will? In other words, in a clockwise direction?

A Yes.

Q So it moved about 75 to 100 feet west and a little bit to the right?

BY MR. KAPLAN:

To Brian's right?

BY MR. GOLDSTEIN:

Q To your right?

A It would be to my right that the vehicle moved. My left, I'm sorry.

Q No. It moved clockwise, correct?

BLAKELY

1
2 A No. Counterclockwise.

3 Q It's going here, it hits here, it moves this way
4 and this way?

5 BY MR. KAPLAN:

6 Off the record.

7
8 (OFF THE RECORD DISCUSSION)

9
10 BY MR. GOLDSTEIN:

11 Q Do you know if there are any witnesses to this
12 accident?

13 A I don't know of any.

14 Q Did there come any point in time that you found out
15 what color the light was?

16 A I'm sorry?

17 Q What color the light was, did you ever find out
18 what color it was?

19 A According to the ticket, it was red.

20 Q What happened to the ticket?

21 BY MR. KAPLAN:

22 Note my objection to the form. You can
23 answer over objection.

24 BY MR. GOLDSTEIN:

25 Q What happened, did you go to court?

BLAKELY

2 A My attorney did.

3 Q Did you plea to a lesser offense?

4 BY MR. KAPLAN:

5 Note my objection to the form. You can
6 answer over objection.

7 BY THE WITNESS:

8 A No.

9 BY MR. GOLDSTEIN:

10 Q Did you tell me how fast you were going a tenth of
11 a mile away?

12 A I don't recall.

13 Q When you were a tenth of a mile away, would it be
14 fair to say you assumed the light was green?

15 A Yes.

16 Q Because the speed you were going, if it was red,
17 you couldn't have stopped?

18 A Correct.

19 Q What was your rate of speed when you were coming
20 out of the curve?

21 A I don't recall.

22 Q Your father came, what did you say to him and what
23 did he say to you when he came to the scene of the
24 accident?

25 A Nothing. He asked if I was all right.

BLAKELY

1

2

Q Did you yourself do any investigation as to how
this accident happened or what caused the accident?

3

4

A No.

5

Q Did you own the vehicle?

6

A Yes.

7

Q You purchased it new?

8

A Yes.

9

Q Did you lease it or you bought it outright?

10

A Bought it outright. Well, payments.

11

Q You made some kind of car loan?

12

A Yes.

13

Q Do you know what bank you made the car loans with?

14

A Through Chrysler.

15

Q Is the vehicle still in operation?

16

A Yes.

17

Q How much damage was done to it?

18

A Progressive covered it. I didn't see the bills.

19

Q What was the damage done to the vehicle?

20

A The nose of the vehicle.

21

Q Did you have air bags?

22

A Yes.

23

Q Did they deploy?

24

A Yes.

25

BY MR. GOLDSTEIN:

BLAKELY

Off the record.

(OFF THE RECORD DISCUSSION)

BY MR. GOLDSTEIN:

Q Do you own a cell phone?

A Yes.

Q Whose name is the cell phone in?

A Mine.

Q Had you used that cell phone at all the morning of the incident?

A I left it at home.

Q Now, the mileage from the truck, did you get reimbursed for the mileage that you had used in the truck or how did you work that?

BY MR. KAPLAN:

From Assential Pumping?

BY MR. GOLDSTEIN:

Yes.

BY THE WITNESS:

A We hadn't worked that out yet.

BY MR. GOLDSTEIN:

Q So you didn't submit it to the IRS or get a deduction or anything else?

BLAKELY

1
2 A No.

3 BY MR. KAPLAN:

4 Do you know whether or not?

5 BY THE WITNESS:

6 A No, we didn't.

7 BY MR. GOLDSTEIN:

8 Q You yourself file any tax returns in 2005?

9 A No.

10 Q Is that because you didn't make enough money to do
11 so?

12 A Correct.

13 Q Did you take, on the day of the accident, any kind
14 of medication, any kind?

15 A No.

16 Q Aspirin, allergy meds or anything else?

17 A No.

18 Q Do you have any medical conditions?

19 A No, I do not.

20 Q Had you had anything of an alcoholic nature within
21 24 hours of the incident?

22 BY MR. KAPLAN:

23 Note my objection to form. You can
24 answer over objection.

25 BY MR. GOLDSTEIN:

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Q Did you have any liquor within 24 hours of the
accident?

A I had a couple beers the night before.

Q Where did you have the beers?

A Mountain Creek Inn in Boiceville.

Q Did you drive there or someone else did?

A I drove there.

Q Do you know what kind of beer?

A Sam Adams.

BY MR. GOLDSTEIN:

Thank you. No further questions.

X _____

BRIAN J. BLAKELY

Sworn to before me this _____
day of _____, 2006.

X _____

NOTARY PUBLIC

PLAINTIFF'S EXHIBITS

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STATE OF NEW YORK)
) ss.
COUNTY OF DUTCHESS)

I, MARIANNE GLUM a stenotype reporter and Notary
Public within and for the State of New York, do
hereby certify:

That, BRIAN J. BLAKELY, the witness whose
deposition is hereinbefore set forth, was duly
sworn by me, and that the transcript of said
deposition is a true record of the testimony given
by such witness.

I further certify that I am not related to any
of the parties to this action by blood or marriage,
and that I am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand
this 19th day of July, 2006.

x Marianne Glum

MARIANNE GLUM

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LAWYER'S NOTES

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Lawyer's Notes

EXHIBIT “H”

COURTESY COPY

1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

NGM INSURANCE COMPANY,

Plaintiff,

-against-

Index No.
07-CV-5417

BLAKELY PUMPING, INC., d/b/a ASSENTIAL PUMPING,
BRIAN J. BLAKELY, PETER J. SLINGERLAND, NANCY
SLINGERLAND and PROGRESSIVE CASUALTY INSURANCE
COMPANY,

Defendants.

-----X

DATE: January 30, 2008
Poughkeepsie, New York

TIME: 12:38 P.M. - 1:09 P.M.

Theresa Seholm, Reporter

DEPOSITION
OF
STEVEN BLAKELY

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Poughkeepsie, New York 12601

BY: PAUL J. GOLDSTEIN, ESQ.

STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED, by
and between the attorneys for the respective
parties hereto, that the sealing and filing
of the witness' deposition are hereby
waived.

It is further stipulated and agreed,
by and between the attorneys for the
respective parties hereto, that all
objections except as to form of the question
are reserved to the time of trial.

It is further stipulated and agreed,
by and between the attorneys for the
respective parties hereto, that they may
sign this deposition before any duly
qualified Notary Public.

* * * *

STEVEN BLAKELY,

produced on behalf of Blakely Pumping, Inc.
d/b/a Assential Pumping, a Defendant herein, having
been first duly sworn by a Notary Public of the State
of New York (Theresa Seholm), upon being examined,
testified as follows:

EXAMINATION BY MR. BRILL:

Q Would you state your name for the record,
please.

A Steven Blakely.

Q Would you state your address for the record,
please.

A 11 Mary Lou Lane, Shokan, New York 12481.

Q Mr. Blakely, my name is Haydn Brill. I
represent National Grange Mutual Insurance
Company in this case, who has filed a
lawsuit to have the rights and obligations
under a commercial insurance policy
adjudicated in connection with
Mr. Slingerland's accident on November 3,
2005, and I'm going to be asking you some

STEVEN BLAKELY

questions about that case.

If there's anything that I ask you that you don't understand, please let me know. I'll be more than happy to rephrase it. Do you understand that?

A Yes.

Q And you understand that even though there's no judge or jury here today, your testimony is under oath?

A Yes.

Q Mr. Blakely, what's your date of birth?

A 9/28/76.

Q And what's your Social Security number?

A 127-70-3854.

Q And how long have you resided at your present address?

A About eight years.

Q And who would you -- are you employed?

A Yes.

Q And who would you consider your full-time employer?

A Freihofer Baking or Entenmann's.

Q Freihofer and Entenmann's --- (interrupted).

A It's actually owned by one company, Weston

STEVEN BLAKELY

Baking is the --- (interrupted).

Q Okay. W-e-s-t-i-n?

A O-n.

Q O-n?

A Yeah.

Q Weston Baking. And where are they located?

A They're located out of Albany.

Q And they make Freihofer's cookies and
Entenmann's cake and --- (interrupted).

A Bread and --- (interrupted).

Q -- doughnuts?

A Yeah, whole nine yards.

Q Delicious chocolate doughnuts.

BY MR. GOLDSTEIN:

Off the record.

(Whereupon, there was a discussion
held off the record.)

BY MR. BRILL:

Q And how long have you been employed by
Weston Baking?

A Probably about nine, ten years.

Q And what do you do for them?

STEVEN BLAKELY

A I'm a route distributor.

Q And what are your job functions and responsibilities as a route distributor?

A I deliver bread and cake to various stores.

Q And that's convenience stores, supermarkets, anybody who sells Entenmann's and Freihofer's cookies?

A Yes.

Q And as part of your job functions and responsibilities do you use a vehicle?

A Yes, I do.

Q And it's one of those big panel delivery trucks?

A Yes, it's a step van.

Q And do you own that vehicle?

A I do.

Q And how long have you owned that vehicle?

A I got it when I first got the route, so ten years.

Q Ten years ago?

A Yeah.

Q And as a route distributor for Weston, are you considered an employee of that company or are you a separate independent

STEVEN BLAKELY

contractor?

A I'm an independent contractor.

Q And as an independent contractor do you do business under some type of corporate or business entity or do you just do business in your own --- (interrupted).

A I do business in my own.

Q In your personal name, in your own name?

A In my own name, yeah.

Q And do you have an interest in any other companies, businesses, corporations?

A Just Blakely Pumping.

Q And I understand that you're a 96 percent shareholder in that corporation?

A Yes, sir.

Q And what is the business of Blakely Pumping?

A It's septic pumping and refusal. I guess that's just what it's referred to. It sounded like the thing to say at the time.

Q And when was that company formed?

A I want to say May of 2005, maybe. I believe it was.

Q And who came up with the name of Assential Pumping, which I think is genius?

STEVEN BLAKELY

A That was my father.

Q And do you do any active work for Blakely Pumping? In other words, do you go out and do the job service?

A No, I'm mostly the financial, making the payments and, you know, all that kind of end of it.

Q The back office?

A Yeah, yeah. Taking care of the paperwork.

Q Okay. In connection with the startup expenses of that corporation, which I presume was by and large the pump truck --- (interrupted).

A Basically the pump truck and then --- (interrupted).

Q Some advertising?

A -- to be incorporated, you know, something like that. Some -- I think we did maybe a little bit of advertising.

Q Did you and your brother share the startup expenses?

A I mostly contributed to that.

Q And does Blakely Pumping have any employees other than yourself and your brother?

STEVEN BLAKELY

A No.

Q Other than Blakely Pumping and your route distribution for Weston, do you have any interest in any other businesses?

A I do not.

Q And prior to working for Weston, were you employed?

A No, I did that right out of high school.

Q And can you give me the benefit of your educational background?

A I have a high school degree and I attended two years of college but did not finish.

Q And would you -- did you attend the same high school as your brother?

A I did, yes.

Q And what year did you graduate?

A '94.

Q And where did you do your two years of college?

A Ulster.

Q Ulster Community?

A Yes.

Q And you finished with an associate's degree?

A No. I didn't finish.

STEVEN BLAKELY

Q Oh, you didn't finish?

A Yeah.

Q You were working towards your associate's degree?

A Yes, I'm still working towards that. Yeah.

Q Okay. Who was primarily responsible for acquiring the pump truck that was used in the business?

A You mean, basically, going and getting it?

Q Yes.

A I made the initial phone calls.

Q And was that pump truck purchased new or used?

A New.

Q Other than the pump truck, did the corporation itself acquire any other vehicles?

A It did not.

Q When the pump truck was purchased, was it purchased individually or in the name of the corporation?

A When it was purchased, it was purchased under my name.

Q Was it financed?

STEVEN BLAKELY

A Yes.

Q And who did the financing?

A Navistar Financial Corporation.

Q Still making payments on it?

A Yes, sir.

Q It's Navistar?

A Yes.

Q As a condition of driving the car off the lot, did you have to obtain insurance for the pump truck?

A We did.

Q And how was that arranged?

A I called a lady by the name of Chandy Stott. At that time she was with the DeForest Group, and she took care of everything for me over the phone.

Q And at the time that you had this discussion with Chandy about the use of the pump truck, did you have any conversations as to whether or not any other vehicles would be used for the business?

A Basically, I called her up like I usually do and -- because she's done a couple of my own personal vehicles also. I called her up and

1 STEVEN BLAKELY

2 I said I need insurance on this particular
3 vehicle. We didn't -- I don't ever get into
4 the paperwork with her, you know, too
5 deeply. I just -- she gives me the
6 insurance I need and that was it.

7 Q So, as I understand your answer, the issue
8 of whether or not any other vehicles were
9 being used for the business did not come up
10 with Ms. Stott?

11 A It did not.

12 BY MR. GOLDSTEIN:

13 We're talking about the pump truck?

14 BY THE WITNESS:

15 Talking about --- (interrupted).

16 BY MR. BRILL:

17 At the time he --- (interrupted).

18 BY THE WITNESS:

19 Got insurance --- (interrupted).

20 BY MR. BRILL:

21 -- acquired the insurance for the pump
22 truck, the subject of using personal
23 vehicles for the company was not discussed
24 with him by Ms. Stott.

25 BY MR. GOLDSTEIN:

STEVEN BLAKELY

When was the insurance bought for the pump truck as opposed to the insurance for the business, the general business liability?

BY MR. BRILL:

Q When was pump truck acquired?

A I'm not positive of the dates. The ---
(interrupted).

Q Approximately?

A I mean, I would say we purchased the truck sometime in May of '05, there, or April of '05. I'm sure right around there.

Q A significant -- a number of months before Mr. Slingerland's accident?

A Yes.

BY MR. GOLDSTEIN:

My question was, you bought a business policy as well?

BY THE WITNESS:

Bought a general liability policy?

BY MR. GOLDSTEIN:

Right.

BY THE WITNESS:

Yes.

1 STEVEN BLAKELY

2 BY MR. GOLDSTEIN:

3 Was that purchased before you
4 purchased the pump truck?

5 BY THE WITNESS:

6 That was purchased -- I don't know the
7 exact date. I know that we incorporated
8 right around the same time we got the truck.
9 Whether or not it was before or after I'm
10 not positive of.

11 BY MR. GOLDSTEIN:

12 And when you bought the initial
13 business policy, did you also buy the
14 non-owned hired automobile endorsement at
15 the same time?

16 BY THE WITNESS:

17 I don't even know what that is, to be
18 honest with you.

19 BY MR. GOLDSTEIN:

20 Okay.

21 BY MR. BRILL:

22 Q When you dealt with Ms. Stott on your
23 insurance needs, do you know did you obtain
24 one policy for the business and the pump
25 truck or two different policies?

STEVEN BLAKELY

A I want to say it was one policy. I don't really remember.

Q And at any time after the pump truck was insured with Ms. Stott or through the companies that she placed the coverage with, did you ever have any discussions with her or any other insurance people about the use of personal vehicles for the corporation?

A Not that I recall.

Q And the timeframe I'm particularly interested in, of course, is prior to Mr. Slingerland's accident?

A Not that I recall.

Q Same answer, right. Now, after Mr. Slingerland was injured, there was a lawsuit against Blakely Pumping, Incorporated and your brother, correct?

A Yes.

Q And as part of the proceedings in that lawsuit that was brought by Mr. Slingerland, I believe that you were asked to attend a deposition on June 13, 2007 right here in Poughkeepsie, correct?

A Yes.

STEVEN BLAKELY

Q And at that time you were asked certain questions about the accident by Mr. Goldstein, and at the time you were represented by an attorney from the office of Craig Curcio?

A I guess so, yeah.

Q And at some point after you attended that deposition did somebody send you a booklet, a transcript of your deposition, and ask you to review it for any corrections?

A I don't know for sure.

Q Is the testimony that you gave at the deposition on June 13, 2007 truthful and -- was the testimony that you provided at the June 13, 2007 deposition truthful and accurate?

A Yes.

BY MR. BRILL:

Let me have this marked as an exhibit.

(Whereupon, the above-referred-to June 13, 2007 deposition transcript of Steven Blakely was marked as Plaintiff's Exhibit 11 for Identification, as of this

STEVEN BLAKELY

date, by the reporter.)

Q I'd like to show you what's been marked as Plaintiff's Exhibit 11, which I represent to you that's a copy of your deposition from June of 2007, and the only reason I show it to you is if you would like an opportunity to review it to make sure that it was truthful and accurate or are you comfortable that --- (interrupted).

A I'm comfortable that it's accurate.

Q Okay. Thank you. The vehicle that you use for your work for Weston, the panel -- the step truck?

A Yes.

Q That's insured I presume?

A Yes.

Q Did Ms. Stott assist you in obtaining insurance for that vehicle?

A That was a different lady, actually. It was a lady by the name of Deanna Tyler.

Q And Deanna, D-e-a-n-n-a?

A Yes.

Q Tyler, T-y-l-e-r?

STEVEN BLAKELY

A Yes.

Q And did she also work with Ms. Stott or
someplace else?

A Someplace else.

Q Where did she work?

A She's now at The DeForest Group, but she has
been other spots, also.

Q And do you know what kind of policy insures
your panel truck?

A I do not.

Q Do you use any personal vehicles in
connection with the Weston business that you
do?

A No. That's the only one.

Q You don't have -- just the panel truck?

A Yeah.

Q And do you understand that the coverage that
was acquired for you for the step truck was
a commercial automobile insurance policy?

A Yes.

Q Do you know what the difference is between a
commercial automobile insurance policy and a
personal auto policy when it comes to the
use of vehicles for your business?

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A No.

Q Do you have any understanding of that?

A Not really, no.

Q Do you know for how many years you've had commercial automobile insurance for your panel truck?

A Probably since the start of the ownership.

Q And has Ms. Tyler been the person who has taken care of your insurance needs for that truck from the beginning?

A No. At one point it was Ms. Stott.

Q And Ms. Tyler took it over after she left The DeForest Group?

A Yeah.

Q And did Ms. Stott take care of it from the time you acquired the truck until the time she left The DeForest Group?

A No, it was switched around. She was in a different area. She was doing personal and there was another one doing commercial and -- it's switched several times.

Q Besides Ms. Stott and Ms. Tyler, do you remember the names of anybody else who assisted you with insurance in terms of the

STEVEN BLAKELY

step truck?

A No.

Q Do you have copies of those insurance policies for the panel truck?

A I do have copies of, like, the most recent ones. Any of the ones I've had in the past are probably thrown away.

Q Okay. That was my question. And besides the panel truck, do you have other vehicles at your home?

A Yes.

Q What kind of vehicles?

A I have a 1972 Impala.

Q Anything else?

A I have a Ford Explorer '02.

Q '02.

A Yeah.

Q Anything else?

A And my wife has an Altima.

Q What year is that?

A '05.

Q '05?

A '05, '06, something like that.

Q Those have personal automobile insurance

STEVEN BLAKELY

policies on them?

A Yes.

Q And who takes care of the insurance for those vehicles?

A She has her own with the two vehicles, the Altima and the Explorer, and I have another separate one with the Impala.

Q And who insures the Impala?

A The Impala is through The DeForest Group, also.

Q And what about your wife's cars, the Explorer and --- (interrupted).

A Those I think are still up at Naccarato.

Q Did you ever obtain an excess or umbrella liability policy in connection with the business of Blakely Pumping?

A I don't even know what that is.

Q When you originally obtained the insurance policy from National Grange, did you read it?

A No.

Q Did your brother read it?

A No.

Q And did you ever have any conversations

STEVEN BLAKELY

about the National Grange policy with anybody at DeForest or Naccarato after the accident?

A No.

Q How about before the accident?

A No.

Q Were you the president of Blakely Pumping?

A I am the president, yeah.

Q And you are the president. And your brother is the vice president?

A Yes.

Q Did you ever have to use a vehicle in connection with the business of Blakely Pumping?

A No.

Q Blakely Pumping have an accountant by the name of Richard Merck?

A Yes.

Q And did you ever discuss the insurance requirements of the company with Mr. Merck?

A No.

Q Who is presently servicing your insurance needs?

A You know, I'd have to get you that name. I

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don't know for sure.

Q And that name is somebody associated with what company?

A The DeForest Group, and she's another one that's in charge of the commercial end of things.

Q Okay. And other than The DeForest Group, are you using any other insurance agencies for the automobile insurance, personal or commercial?

A I do have something in Naccarato.

Q Do you know what it is you have at Naccarato?

A I think it's -- I want to say Preferred Mutual is the policy itself, but I can't recall on what.

Q Do you know what that's for? Is that --- (interrupted).

A I want to say something for the home.

Q For the homeowner's?

A Yeah, homeowner's.

Q And you deal with Ms. Stott at Naccarato?

A No, I don't deal with her anymore. She's missing in action. I don't know where she

STEVEN BLAKELY

is.

Q Who do you deal with at Naccarato? Do you remember?

A Nobody in particular.

Q After the accident involving Mr. Slingerland, did the corporation ever acquire business -- commercial automobile insurance for the use of your brother's pickup truck or replacement truck after the accident?

I don't know if was totaled or not or repaired. Did the corporation acquire commercial automobile insurance for any vehicles used in connection with Blakely Pumping?

A No.

Q What happened to the pickup truck after the accident?

A I believe it was totalled.

Q Okay.

A But I mean -- no, actually -- I'm sorry -- it wasn't totaled. It was fixed and he -- through insurance fixed it. It wasn't completely totalled, but it was ---

STEVEN BLAKELY

accident was owned by him personally,
correct?

A Yes.

Q And it's your understanding that at the time
of the accident your brother was an officer
of Blakely Pumping, Incorporated?

A Yes.

BY MR. BRILL:

Thank you. I have no further
questions.

BY MR. GOLDSTEIN:

I just have a few.

EXAMINATION BY MR. GOLDSTEIN:

Q Paul Goldstein, as you know. You
incorporated the business in what year?

A I want to say '05.

Q And when you incorporated the business,
around that time you bought a pump truck?

A A pump truck, yeah.

Q And you were incorporated by an accountant
named?

A Richard Merck.

Q Merck?

A Yeah.

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Q Now, did he advise you or did anyone advise you that you should go get some insurance for the business?

A No one advised me, no.

Q You knew from just experience it's a good idea to have insurance or what ---
(interrupted).

A Well, when I made the phone call to insure the truck, she said that you need to also have another -- a general liability policy, I guess it is, so I got that also.

Q And this would be Chandy Stott?

A Yes.

Q And you knew Chandy Stott for how long prior to that phone call?

A Probably six, seven years.

Q And how did you know her for six, seven years?

A Just through work, you know, doing business with her, personal vehicles or whatever.

Q Because she had insured your personal vehicles?

A Yes.

Q You're an independent contractor, are you

STEVEN BLAKELY

not, for Entenmann's?

A I am.

Q Now, is that business somehow insured through DeForest?

A That --- (interrupted).

Q Through Chandy Stott?

A No, not -- I mean, it's through -- I can't remember the -- DeForest Group, through --- (interrupted).

Q Yes, that's what I mean.

A Oh, yeah, yeah, yeah. Not through Chandy anymore though, but...

Q Right, but through DeForest Group you had some kind of a commercial business liability policy or did you --- (interrupted).

A There is a policy through DeForest for that business, yes.

Q And do you know what kind of policy that is?

A I do not.

Q And did Chandy Stott assist you in getting that policy?

A She did, yeah. Well, I mean, there's been a new one since, but at that time, yes.

Q So, the interview that you had with Chandy,

STEVEN BLAKELY

was that by phone or in person?

A It's usually always by phone. I don't meet with her.

Q And what questions did she ask you about the new business?

A Nothing, except for -- I did basically call her. I said I need insurance for this truck and then she said, well, you're going to need insurance for the business, also, and I said, okay, set me up.

Q Did you explain to her that the business consisted of two employees, you and your brother, or did she inquire about that?

A At that time I don't think she even inquired.

Q Well, who was going to get you the Worker's Comp. benefits?

A Who was going to get me Worker's Comp.?

Q Yes. At one time you said you had talked about getting Worker's Comp. and you realized it was too expensive.

A Well, we realized -- because originally my father was also going to be an officer in the business and he wound up not because it

STEVEN BLAKELY

was going to be too expensive.

Q Who gave you the quote on the Worker's Comp. premiums?

A Probably Chandy.

Q So, did she understand that the two employees would be you and your brother?

A I believe so.

Q And did you discuss with her when you would use the pump truck and when you wouldn't use the pump truck?

A Meaning, whether or not you had a job or not? Is that what you mean?

Q Right. What I mean is would there be a time, an occasion, that you would use other vehicles other than the pump truck in the course of your business?

A I don't think we even went over that.

Q At that time she insured your motor vehicles?

A She, at that time --- (interrupted).

Q When I say she, DeForest Group insured your motor vehicles?

A Right, I believe so. You mean got me an insurance card?

STEVEN BLAKELY

Q Yes.

A Is that what you mean?

Q Yes. In other words, you purchased your insurance for your own motor vehicles through her?

A Right.

Q Now, the truck that you drive ---
(interrupted).

BY MR. BRILL:

When you say her, you're referring to DeForest Group?

BY MR. GOLDSTEIN:

To DeForest Group.

Q Correct?

A Um-hm.

Q In Entenmann's you have a delivery truck?

A Yes.

Q Who did you insure that through?

A That was insured through DeForest Group.

Q And do you own that truck?

A I do.

Q Did she at any time ask you what kind of vehicle your brother drives?

A No.

STEVEN BLAKELY

Q Or if your brother would be using a vehicle
in the business?

A No.

BY MR. GOLDSTEIN:

Nothing further. Thank you.

(Whereupon, there was a discussion
held off the record.)

BY MR. GOLDSTEIN:

Oh, I'm sorry.

Q When you heard of the accident, did you at
any time call Chandy Stott or anyone from
DeForest Group to tell them about the
accident?

A No, I didn't.

Q At any time did you receive some legal
process suing you for this accident?

A No.

Q Suing the corporation for this accident?
When I mean you, I mean the corporation, for
this accident.

A Did I receive?

Q Some kind of legal papers saying that your

STEVEN BLAKELY

corporation was being sued for the accident
your brother was in.

A Just when this situation came up, I received
that paperwork, yeah.

Q And did you ever advise either Chandy Stott,
DeForest, or National Grange about the suit?

A No, I didn't.

Q Do you know -- did you give -- who did you
give the papers to?

A I believe -- I didn't give them to anybody.
I believe it was taken care of when Mainetti
got involved with that and that's when NGM
was notified.

Q And did you speak with Mainetti?

A I didn't personally. My brother did.

Q So, you let your brother handle that aspect
when you were served with papers?

(Continued on next page to include
jurat.)

STEVEN BLAKELY

A Yes, sir.

BY MR. GOLDSTEIN:

Okay. That's it.

BY MR. BRILL:

That's it.

(Whereupon, the deposition of
STEVEN BLAKELY was concluded at 1:09 p.m.)

X_____
STEVEN BLAKELY

Subscribed and sworn to before me
this_____ day of_____ 2008.

X_____
NOTARY PUBLIC

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C E R T I F I C A T E

STATE OF NEW YORK)
)SS:
COUNTY OF DUTCHESS)

I, THERESA SEHOLM, a Court Reporter and
Notary Public within and for the State of New York, do
hereby certify:

That STEVEN BLAKELY,
the witness whose deposition is hereinbefore set
forth, was duly sworn by me and that such deposition
is a true record of the testimony given by the
witness.

I further certify that I am not related to
any of the parties to this action by blood or marriage
and I am in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 4th day of February, 2008.


Theresa Sehalm

LAWYER'S NOTES

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